

Town of Amherst Planning Board Zoning Subcommittee
Meeting of Wednesday, March 30, 2011
Town Hall, Town Room

Attendance: Jonathan O'Keeffe, Bruce Carson, Rob Crowner; absent: Richard Roznoy
Town staff: Jonathan Tucker, Christine Brestrup
Members of the public: John Gerber, Betsy Krogh, Joan Burgess, Joe Swartz, Jonah Okun, Donna McCallum, Melissa Perot, Walter Wolnik, others.

1. Announcements and minutes.

O'Keeffe calls the meeting to order at 5:00pm. The committee must make a recommendation to the Planning Board on the "backyard chicken" articles for the scheduled public hearing following this meeting.

The committee **approves** the minutes of March 16, 2011 with amendments by a vote of 3-0; and the minutes of March 2, 2011 with amendments by a vote of 2-0 (O'Keeffe abstaining).

2. 2011 ATM zoning amendments.

a-b. Accessory livestock or poultry.

The committee discusses how to handle a petition Zoning Bylaw article and similar-but-competing General Bylaws article relating to the permitting and registration of certain poultry and/or rabbits in residential zones. Tucker states that at Town Meeting, the Planning Board version of the General Bylaws amendment will likely follow the petitioners' Zoning Bylaw article and precede their General Bylaws article. Crowner states that he will prefer the petitioners' General Bylaws amendment, but will also support the Planning Board version in the interest of promoting the passage of the associated Zoning Bylaw amendment.

Carson suggests lowering the threshold for requiring an administrative hearing to the objection of one neighbor rather than a majority of neighbors, since a single directly abutting neighbor may be more affected than anyone else, but O'Keeffe cautions against allowing one person inordinate leverage over the process. Tucker states that in practice any person would be able to request a review of the application with the Health Director or applicant. Tucker states that the majority requirement would refer to abutting *properties* rather *owners* and that the criteria for approving a registration would be adherence to best practices rather than the preferences of neighbors.

Crowner states that an implicit motive for expanding the right to raise chickens is to normalize them vis-a-vis other domestic animals; the notification-and-hearing requirement in the Planning Board version seems to contradict that, since it is not required for dog or cat licensing. Tucker points out that the Health Director has previously suggested implementing a registration process without a notification-and-hearing requirement on a trial basis for one year; the process could be amended if desired after that time. O'Keeffe states that until society's perception of chickens changes, the notification-and-hearing requirement may make passage of the Zoning Bylaw amendment more palatable to many.

Gerber states that the primary consideration of the General Bylaws amendment is to institute a registration process to assist the Animal Welfare Officer in enforcing best practices; raising barriers, such as a notification-and-hearing requirement, may remove some people from this process since it resembles the more onerous special permitting process. There is no evidence of health concerns that should mandate notification. O'Keeffe states that the proposed regulations are not overly burdensome, and a hearing would be required only if a majority of abutters object -- and in most cases there are likely to be only a handful of abutters. Tucker states that notification and hearing provides an opportunity for communication between neighbors, but also a buffer against contention. Crowner points out that registration would be required of all chicken owners -- even those already allowed by

right to raise them -- but so would notification and (possible) hearing, again including those already raising chickens by right.

Krogh wants to encourage the raising of small livestock because of global climate issues and therefore favors minimal and equitable (compared to pets) regulation. She suggests that the proposed ten-foot property line setback be waivable in order to enable adjoining neighbors to share a coop located within the setback. Tucker states that a waiver would already be possible under the Special Permit process (which itself requires abutter notification) and that it may be within the scope of the article to propose an amendment to section 5.0141.2 to allow the setback requirement to be altered.

Burgess points out that many lots in the R-G zone are small and suggests a half-acre minimum space requirement. O'Keeffe notes that lot size was the basis of the ZSC's original attempt to craft an accessory livestock amendment, but it was abandoned on the recommendation of the Agricultural Commission in favor of setbacks. Some lots may be configured in such a way as to meet a space requirement but not a setback requirement.

In response to a request for clarification on whether the proposed amendment would allow the raising of chickens or rabbits for commercial purposes, Tucker states that unless a "recognizable" business were established on a property, the sale of meat or eggs would not be regulated -- and the limit of twelve animals would likely preclude such a business in the center residential zones.

Tucker states that the proposed registration would be of the property at which livestock is to be kept, not the animals or their owners. It would not be a permit or license, though the Health Director or Animal Welfare Officer could deny the use if best practices conditions are not met. There would not be an annual registration renewal, but there would be an annual inspection of the coop. It is not clear whether the property registration would be automatically passed to a new owner of the property, but an annual inspection would reveal a change of ownership and could result in removal of the registration.

Swartz relates his personal and professional experience raising small livestock as a farmer and agricultural businessman. Small numbers of rodents would do considerable damage to feedstock before larger infestations were attracted, creating a built-in incentive to observe best practices. Notification rules are burdensome; enforcement is not. Rather than fostering isolation, backyard livestock enhances a sense of community. The question of humane treatment of animals is much more of a concern with Big Agriculture than it is with backyard agriculture. There are lots of resources available to help people learn how to raise chickens.

Swartz states that the Agricultural Commission, of which he is a member, unanimously endorsed the petitioners' versions of the articles on March 29, 2011.

Okun advocates an educational effort, suggesting that an FAQ be sent to abutters along with the notice of application. Tucker states that the Health Director is already working on such a document.

McCallum supports a simple and equitable process to help promote food independence.

The committee discusses whether to propose amendments to the petitioners' Zoning Bylaw article, ultimately deciding not to tinker with the number proposed to be allowed in the R-G zone nor to explicitly restrict coops from the front setback of a lot. The registration process can address either of these conditions. Tucker reviews a few minor language adjustments.

O'Keeffe moves (Crownor seconds) to recommend the petitioners' Zoning Bylaw amendment with minor language adjustments to the Planning Board and the committee **approves** by a vote of 3-0. O'Keeffe moves for the purpose of discussion (Crownor seconds) to recommend the petitioners' General Bylaws amendment, but the motion **fails** by a vote of 1-2 (Crownor in favor). O'Keeffe moves (Carson seconds) to recommend the Planning Board version of the General Bylaws amendment and the committee **approves** by a vote of 3-0. Note: Roznoy requested, prior to the meeting, that the minutes should reflect his opposition to the substance of either article.

c. Filling of land permitting.

Tucker states that a Planning Board public hearing for this article has been scheduled for April 6. The ZBA has discussed this article but has not made a recommendation.

d. Other zoning amendments.

N/A.

3. Village Center planning projects.

Tucker states that town staff have begun reviewing existing conditions with the consultant. The formal project initiation will begin soon. Stakeholder identification will be on-going throughout April and the first public charrette meetings are tentatively planned for early May. The committee discusses this process and responds to questions from Perot, a member of the North Amherst Village Improvement Society.

4. Next meetings.

The committee is scheduled to meet on Wednesday, April 6 and Wednesday, April 27 before Planning Board meetings. The Planning Board is scheduled to meet on Wednesday, April 13 as well. Executive session minutes from March 2 will need to be approved and released in a scheduled executive session at a future meeting.

5. Adjournment.

The meeting is adjourned by consensus at 6:42pm.